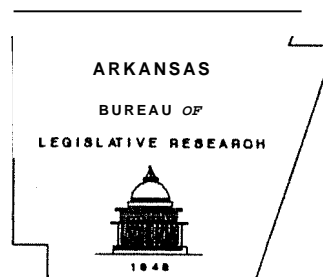


**FINAL SUMMARY
OF ACTION BY
SECOND
EXTRAORDINARY SESSION**

**OF THE
77TH GENERAL ASSEMBLY
OF THE STATE OF ARKANSAS**

1989

July 25-27, 1989



**OFFICE USE ONLY
August, 1989**

**BUREAU OF LEGISLATIVE RESEARCH
State Capitol, Room 315
Little Rock, Arkansas 72201**

SUMMARY OF ACTION OF THE
SECOND EXTRAORDINARY SESSION
OF THE 77TH GENERAL ASSEMBLY

The Second Extraordinary Session of the 77th General Assembly convened at 4:00 p.m. on Tuesday, July 25, 1989 and adjourned on Thursday, July 27, 1989. The following items were enacted into law:

"PULASKI COUNTY SCHOOL DESEGREGATION SETTLEMENT AGREEMENT"

Act 1 (SB 1)

- Authorizes the State Board of Education to enter into a Consent Order which directs the Department of Education to make payments to the three (3) Pulaski County School Districts and the Joshua Intervenors in the case styled, Little Rock School District vs. Pulaski County Special School District, et al, No. LR-C-82-866.
- Limits the total maximum liability of the State to \$131,000,000 (excluding required State funding for the majority to minority students, existing magnet schools and magnet adjustments ordered prior to June 28, 1989) above the total State aid owed for the 1988-89 fiscal year.
- Authorizes a transfer of \$19,685,539 from the Budget Stabilization Trust Fund to the Public School Fund.
- Authorizes maximum transfers of \$17,100,000 in FY 1989-90 and \$21,500,000 in FY 1990-91, plus an amount each such fiscal year equal to any payments to the three (3) school districts under formula adjustment provisions of the settlement agreement, from Net General Revenues to the Public School Fund.
- Reverses the transfer of \$14,220,000 from the Budget Stabilization Trust Fund to the General Revenue Fund Account of the State Apportionment Fund as set out in Section 23 of Act 199 of the 1st Extraordinary Session of 1989, which such Section is repealed by this Act.
- Requests and urges the Special Master and the court to disapprove the following items contained in the settlement agreement:
 - 1) Article 11, Paragraph J, Recognition of Autonomy;
 - 2) Article 111, Paragraph M, School Construction;

- 3) Article IV, Paragraph C, Reserved Issue; and
- 4) Article VII, Paragraph D, Housing.

Act 2 (HB 1002)

- Becomes effective only in the event that Act 1 of the 2nd Extraordinary Session of 1983 is declared invalid by a federal court, the Arkansas Supreme Court, or by order of a lower state court, if such order is not appealed or if appealed, is not reversed on appeal; and a Consent Order is entered by U S District Court.

- Creates the Court-Ordered Desegregation Trust Fund and authorizes appropriations from such fund as follows:

	Fiscal Years	
	<u>1989-90</u>	<u>1990-91</u>
	0,360,0	9,360,0
URS Loans	6,000,000	
Magnet Payback	6,825,533	
Legal Fees	2,450,000	
Compensatory Education Payments & Other	11,833,023	12,107,525
Reimbursement to Public School Fund for		
"Hold-Harmless" & Other Formula		
Adjustments	<u>3,000,000</u> 0	<u>3,000,000</u>
Total Appropriations	39,774,566	\$24,467,525

- Earmarks a portion of the additional one cent (1¢) Sales and Use Tax authorized in 1983 as special revenue in order to provide funding for the amounts appropriated and required from the Court-Ordered Desegregation Trust Fund.

- Contains provisions identical to Act 1 as described above as follows:

- 1) Consent Order Authorized
- 2) Limits on the State's total maximum liability
- 3) Request of disapproval of items contained in the Settlement Agreement

- Repeals Act 1002 of 1983 and Act 286 of the 1st Extraordinary Session of 1989.

DEPARTMENT OF FINANCE AND ADMINISTRATION

Act 3 (HB 1003)

- Provides supplemental appropriation of \$2,000,000 in fiscal year 1989-90 for Disaster Assistance Grants.

2nd EXTRAORDINARY SESSION

ACT 1 1989

AS ENGROSSED 1/26/89 AS ENGROSSED 1/21/89

1 State of Arkansas
2 77th General Assembly

A Bill

3 Second Extraordinary Session, 1989
4 By: Joint Budget Committee

SENATE BILL 1
CALL ITEM 1

For An Act To Be Entitled

"AN ACT TO AUTHORIZE THE STATE BOARD OF EDUCATION TO ENTER INTO A CONSENT ORDER ESTABLISHING THE STATE'S LIABILITY TO THE THREE PULASKI COUNTY SCHOOL DISTRICTS AND THE JOSHUA INTERVENORS AND TO TRANSFER FUNDS TO THE PUBLIC SCHOOL FUND FOR THE BIENNIAL PERIOD ENDING JUNE 30, 1991; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. CONSENT ORDER AUTHORIZED. The State Board of Education is hereby authorized to enter into a consent order which directs the Arkansas Department of Education to make payments to the three Pulaski County School Districts and the Joshua Intervenors in the case pending in the United States District Court, Eastern District of Arkansas, Western Division, styled Little Rock School District vs. Pulaski County Special School District, et al, No. LR-C-82-866, of not more than \$131,000,000 (excluding required state funding for the majority to minority students, existing magnet schools, and magnet adjustments ordered prior to June 28, 1989) above the amount of total state aid owed to the three Pulaski County School Districts for the 1988-89 fiscal year. Any such consent order must provide that such amounts shall be the total maximum liability of the State in the case. Any such consent order must also provide that the State shall not be obligated to contribute to the construction, renovation or operation of magnet schools not in existence on the effective date of this legislation.

SECTION 2. If a consent order as authorized under Section 1 is entered by the U.S. District Court, the following actions shall take place:

(A) Immediately there shall be transferred on the books of the Chief Fiscal Officer of the State, the State Treasurer and the State Auditor from

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SPEAKER OF THE HOUSE

Speaker of the House

1 the Budget Stabilization Trust Fund to the Public School Fund the sum of
2 \$19,685,539.

3 (B) For the fiscal year ending June 30, 1990, the Department of Education
4 shall from time to time as needed, certify to the State Treasurer and the
5 Chief Fiscal Officer of the State, the amount of funds disbursed for
6 desegregation expenses *and the hold-harmless provisions* under the consent
7 order. Upon the receipt of such certification, the State Treasurer, after
8 making those deductions as set out in Arkansas Code 19-5-202(b)(2)(B), shall
9 also deduct **up** to, but not to exceed in total for FY90, the sum of \$17,100,000
10 *plus an amount equal to any payments to the three districts under formula*
11 *adjustment provisions of the settlement agreement* from the net general
12 revenues and transfer this amount to the Public School Fund.

13 (C) For the fiscal year ending June 30, 1991, the Department of Education
14 shall from time to time as needed, certify to the State Treasurer and the
15 Chief Fiscal Officer of the State, the amount of funds disbursed for
16 desegregation expenses *and the hold-harmless provisions* under the consent
17 order. Upon the receipt of such certification, the State Treasurer, after
18 making those deductions as set out in Arkansas Code 19-5-202(b)(2)(B), shall
19 also deduct up to, but not to exceed in total for FY91, the sum of \$21,500,000
20 *plus an amount equal to any payments to the three districts under formula*
21 *adjustment provisions of the settlement agreement* from the net general
22 revenues and transfer this amount to the Public School Fund.

23
24 SECTION 3. Section 23 of Act 199 of 1989 First Extraordinary Session is
25 hereby repealed, and the funds transferred pursuant to that section shall
26 immediately be restored to the Budget Stabilization Trust Fund.

27
28 SECTION 4. All provisions of this Act of a general and permanent nature
29 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
30 Revision Commission shall incorporate the same in the Code.

31
32 SECTION 5. *The Arkansas General Assembly respectfully requests and urges*
33 *the Special Master and the Court to disapprove the following items as*
34 *contained in the "Pulaski County School Desegregation Settlement Agreement"*
35 *executed by the parties in Little Rock School District v. Pulaski County*
36 *Special School District, et al., in March, 1989, and to be filed with the*

1 United States District Court for the Eastern District of Arkansas, as follows:

- 2 1) Article 11, Paragraph J, Recognition of Autonomy;
- 3 2) Article 111, Paragraph M, School Construction;
- 4 3) Article IV, Paragraph C, Reserved Issue; and
- 5 4) Article VII, Paragraph D, Housing.

6

7 SECTION 6. EMERGENCY CLAUSE. It is hereby found and determined by the

8 General Assembly of the State of Arkansas that the State has been found liable

9 for constitutional violations in Little Rock School District vs. Pulaski

10 County Special School District, et al, No. LR-C-82-866; that the State has

11 exhausted its appeals on the issue of liability; that the State's potential

12 monetary liability for desegregation costs to the Pulaski County School

13 Districts has not been fully established but could exceed \$131,000,000 over

14 amounts already ordered; that the parties have proposed a consent order

15 establishing the State's maximum additional liability at not more than

16 \$131,000,000; that legislative authorization to the State Board of Education

17 to enter into the consent order is sought; and that the transfer of additional

18 funds to the Public School Fund is essential to hold harmless the school

19 districts of the State. Therefore, an emergency is hereby declared to exist

20 and this Act being necessary for the immediate preservation of the public

21 peace, health, and safety shall be in full force and effect from and after its

22 passage and approval.

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27 /s/ Senator Howell

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APPROVED BY *[Signature]*
7-28-89 GOVERNOR

[Signature]
Speaker of the House

2nd EXTRAORDINARY SESSION
ACT 2 1989
AS ENGROSSED 7/26/89

1 State of Arkansas
2 77th General Assembly

A Bill

3 Second Extraordinary Session, 1989
4 By: Representative Mahony

HOUSE BILL 1002
CALL ITEM 1

7 For An Act To Be Entitled

8 "AN ACT TO MAKE AN APPROPRIATION TO THE DEPARTMENT OF
9 EDUCATION FOR PAYING EXPENSES OF COURT-ORDERED DESEGREGATION
10 FOR THE BIENNIAL PERIOD ENDING JUNE 30, 1991; AND FOR OTHER
11 PURPOSES."

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

15 SECTION 1. FUND CREATED. There is hereby created on the books of the
16 State Treasurer, State Auditor, and Chief Fiscal Officer of the State, a fund
17 to be known as the "Court-Ordered Desegregation Trust Fund", which such fund
18 shall consist of funds made available by the General Assembly and is to be
19 used for paying expenses of court-ordered desegregation, including but not
20 limited to the legal expenses of the Department of Education in representing
21 the State of Arkansas and the State Board of Education in desegregation suits
22 and additional public school costs for selected school districts, as required
23 or ordered by a federal court to be paid by the State of Arkansas. A
24 reporting of all expenditures by the Department of Education shall be made
25 quarterly to the Office of the Governor, the Arkansas Legislative Council, and
26 the Joint Interim Committee on Education.

27 At the end of each month, the Department of Education shall certify to
28 the State Treasurer, the amount of obligations incurred for desegregation
29 expenses determined to be the responsibility of the State of Arkansas by a
30 federal court. Upon the receipt of such certification, the State Treasurer
31 shall distribute the amount certified from the Court-Ordered Desegregation
32 Trust Fund.

34 SECTION 2. (a) There is hereby appropriated, to be payable from the
35 Court-Ordered Desegregation Trust Fund to the Department of Education for
36 additional expenses of desegregating public schools, as required by federal

PRESIDENT OF SENATE

B. Mahony
SPEAKER OF THE HOUSE

1 SECTION 7. The Arkansas General Assembly respectfully requests and urges
2 the Special Master and the Court to consider removing the following items as
3 contained in the "Pulaski County School Desegregation Settlement Agreement"
4 executed by the parties in Little Rock School District v. Pulaski County
5 Special School District, et al., in March, 1989, and to be filed with the
6 United States District Court for the Eastern District of Arkansas, as follows:

- 7 1) Article II, Paragraph J, Recognition of Autonomy;
- 8 2) Article III, Paragraph M, School Construction;
- 9 3) Article IV, Paragraph C, Reserved Issue; and
- 10 4) Article VII, Paragraph D, Housing.

11
12 SECTION 8. Consent order authorized. The State Board of Education is
13 hereby authorized to enter into a consent order which directs the Arkansas
14 Department of Education to make payments to the three Pulaski County School
15 Districts and the Joshua Intervenors in the case pending in the United States
16 District Court, Eastern District of Arkansas, Western Division, styled Little
17 Rock School District vs. Pulaski County Special School District, et al., No.
18 LR-C-82-866, of not more than \$131,000,000 (excluding required state funding
19 for the existing magnet schools, magnet adjustments, and majority to minority
20 students ordered prior to June 28, 1989) above the amount of total state aid
21 owed to the three Pulaski County School Districts for the 1988-89 fiscal year.
22 Any such consent order must provide that such amounts shall be the total
23 maximum liability of the state in the case. Any such consent order must also
24 provide that the state shall not be obligated to contribute to the
25 construction, renovation or operation of magnet schools not in existence on
26 the effective date of this legislation.

27
28 SECTION 9. Funds appropriated by this act shall not be disbursed unless
29 and until a consent order as authorized and limited by Section 8 hereof is
30 entered by the U. S. District Court for the Eastern District of Arkansas,
31 Western Division, in the case of Little Rock School District v. Pulaski County
32 Special School District, et al., No. LR-C-82-866.

33
34 SECTION 10. Arkansas Code 26-52-302 is hereby amended to read as
35 follows:
36 "26-52-302. Additional one percent tax levied.

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PRESIDENT OF SENATE

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SPEAKER OF THE HOUSE

1 (a) In addition to the excise tax levied upon the gross proceeds or
 2 gross receipts derived from all sales by the Arkansas Gross Receipts Act, §
 3 26-52-101 et seq., there is levied an excise tax of one percent (1%) upon all
 4 taxable sales of property and services subject to the tax levied in that act.
 5 This tax shall be collected, reported, and paid in the same manner and at the
 6 same time as is prescribed by law for the collection, reporting, and payment
 7 of all other Arkansas gross receipts taxes. In computing gross receipts or
 8 gross proceeds as defined in § 26-52-103(a)(4), a deduction shall be allowed
 9 for bad debts resulting from the sale of tangible personal property.

10 (b) A portion of the one percent (1%) tax levied by this section shall
 11 be raised and collected for educational purposes and shall be used to finance
 12 the Court-Ordered Desegregation Trust Fund. All taxes received by the
 13 director from tax levied by this section shall be deposited in the Revenue
 14 Holding Fund Account. The total amount appropriated and required each fiscal
 15 year from the Court-Ordered Desegregation Trust Fund shall be determined and
 16 this amount shall be certified by the Chief Fiscal Officer of the State to the
 17 State Treasurer as special revenues from such gross receipts taxes. The State
 18 Treasurer shall transfer the funds certified as special revenues from the
 19 Revenue Holding Fund Account to the Court-Ordered Desegregation Trust Fund and
 20 the remaining funds shall be transferred to the general revenue fund account
 21 of the State Apportionment Fund."
 22

23 SECTION 11. Arkansas Code 26-53-107 is hereby amended to read as
 24 follows:

25 "26-53-107. Additional one percent tax levied.

26 (a) In addition to the excise tax levied upon the privilege of storing,
 27 using, or consuming tangible personal property within this state by the
 28 Arkansas Compensating Tax Act, § 26-53-101 et seq., there is levied an excise
 29 tax of one percent (1%) upon all tangible personal property subject to the tax
 30 levied in that act, and the tax shall be collected, reported, and paid in the
 31 same manner and at the same time as is prescribed by law for the collection,
 32 reporting, and payment of state compensating taxes.

33 (b) A portion of the one percent (1%) tax levied by this section shall
 34 be raised and collected for educational purposes and shall be used to finance
 35 the Court-Ordered Desegregation Trust Fund. All taxes received by the
 36 director from tax levied by this section shall be deposited in the Revenue

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 PRESIDENT OF SENATE

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 SPEAKER OF THE HOUSE

1 effect only in the event that the other act or acts are declared invalid by
2 a federal court, the Arkansas Supreme Court, or by order of a lower state
3 court, if such order is not appealed or if appealed, is not reversed on
4 appeal. Unless such event occurs, the provisions of Sections 1 through 13 of
5 this act shall have no force or effect.

6
7 SECTION 15. Act 902 of 1989 and Act 286 of the First Extraordinary
8 Session of the Seventy-Seventh General Assembly are hereby repealed.

9
10 SECTION 16. All provisions of this Act of a general and permanent nature
11 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
12 Revision Commission shall incorporate the same in the Code.

13
14 SECTION 17. EMERGENCY. It is hereby found and determined by the General
15 Assembly that the court in Little Rock School District v. Pulaski County
16 Special School District has found that the state of Arkansas is responsible
17 for payment of a portion of the cost of desegregation in the three school
18 districts in Pulaski County; that the Board of Education and the respective
19 boards of directors of the three school districts have entered into a
20 settlement agreement which specifically defines and limits the state's
21 liability; that the effectiveness of the settlement agreement is contingent on
22 the enactment of legislation to fund the state's financial obligations as set
23 forth in the agreement; that under the terms of the agreement, if funds are
24 provided to meet the state's obligations under the settlement agreement, the
25 state will be dismissed as a defendant in the litigation; that it is urgent
26 that monies be made available as soon as possible to meet the state's
27 financial obligations as prescribed in the settlement agreement and to thereby
28 fix and limit the state's liability in this matter. Therefore, an emergency
29 is hereby declared to exist and this Act being necessary for the preservation
30 of the public peace, health and safety shall be in full force and effect from
31 and after its passage and approval.

32
33
34 APPROVED BY Boatman Rep. Mahony
35 GOVERNOR
36 7-28-89

Beth Lewis
SPEAKER OF THE HOUSE

2nd EXTRAORDINARY SESSION

ACT 3 1989

A Bill

HOUSE BILL 1003

1 State of Arkansas
2 77th General Assembly
3 2nd Extraordinary Session, 1989
4 By: Representative J. E. Miller

CALL ITEM 2

For An Act To Be Entitled

"AN ACT TO MAKE AN APPROPRIATION FOR REPLENISHMENT OF DISASTER ASSISTANCE TO INDIVIDUALS OR FAMILIES AS AUTHORIZED BY THE DISASTER RELIEF ACT OF 1974, AND TO MAKE STATE FUNDS AVAILABLE FOR EMERGENCIES, AS AUTHORIZED BY ARKANSAS CODE 12-75-101 ET SEQ., TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION WHICH SHALL BE SUPPLEMENTAL AND IN ADDITION TO THOSE PROVIDED FOR IN SECTION 1 OF ACT 91 OF THE 1ST EXTRAORDINARY SESSION OF 1989, FOR THE FISCAL YEAR ENDING JUNE 30, 1990 AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. APPROPRIATIONS. There is hereby appropriated, to the Department of Finance and Administration Disbursing Officer, to be payable ,from the Disaster Assistance Fund, for provision of the disaster grants as authorized by the Disaster Relief Act of 1974 and for complying with the Arkansas Emergency Services Act of 1973 (Ark. Code 12-75-101 et. seq.), as amended, by the Office of Emergency Services which shall be supplemental and in addition to those provided for in Section 1 of Act 91 of the 1st Extraordinary Session of 1989, for the fiscal year ending June 30, 1990, the following:

ITEM	FISCAL YEAR
NO.	1989-90
(01) GRANTS	\$2,000,000

SECTION 2. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized by this Act shall be limited to the appropriation for such agency and funds made available by law for the support of such appropriations; and the

Handwritten signature of the President of the Senate.

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1 restrictions of the State Purchasing Law, the General Accounting and Budgetary
2 Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures
3 and Restrictions Act, or their successors, and other fiscal control laws of
4 this State, where applicable, and regulations promulgated by the Department of
5 Finance and Administration, as authorized by law, shall be strictly complied
6 with in disbursement of said funds.

7
8 SECTION 3. LEGISLATIVE INTENT. It is the intent of the General Assembly
9 that any funds disbursed under the authority of the appropriations contained
10 in this Act shall be in compliance with the stated reasons for which this Act
11 was adopted, as evidenced by the Agency Requests, Executive Recommendations
12 and Legislative Recommendations contained in the budget manuals prepared by
13 the Department of Finance and Administration, letters, or summarized oral
14 testimony in the official minutes of the Arkansas Legislative Council or Joint
15 Budget Committee which relate to its passage and adoption.

16
17 SECTION 4. All provisions of this Act of a general and permanent nature
18 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
19 Revision Commission shall incorporate the same in the Code.

20
21 SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the
22 Seventy-Seventh General Assembly, meeting in Second Extraordinary Session,
23 that passage of this Act is necessary for replenishment of disaster assistance
24 grants to individuals and public entities as needed. Therefore, an emergency
25 is hereby declared to exist and this Act being necessary for the immediate
26 preservation of the public peace, health and safety shall be in full force and
27 effect from and after its passage and approval.

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PRESIDENT OF SENATE

APPROVED BY *Baird*
GOVERNOR
7-28-89

John E. Miller
Baird
SPEAKER OF THE HOUSE